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DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Development Voucher Program

AGENCY: Rural Housing Service, USDA.

ACTION: Notice

SUMMARY: The U.S. Department of Agriculture (USDA) in fiscal year (FY) 2006 established the demonstration Rural Development Voucher Program (RDVP), as authorized under Section 542 of the Housing Act of 1949 as amended (42 U.S.C. 1490R) (without regard to Section 542(b)). This Notice informs the public of the general policies and procedures for the RDVP for FY 2016. Rural Development Vouchers are only available to low-income tenants of Rural Development (RD)-financed multi-family properties where the Rural Rental Housing loan (Section 515) has been prepaid (either through prepayment or foreclosure action); prior to the loan's maturity date.

DATES: In order for eligible tenants to participate, a voucher obligation form must be submitted within 10 months of the foreclosure or pre-payment.

FOR FURTHER INFORMATION CONTACT: Stephanie B.M. White, Director, Multi-Family Housing Portfolio Management Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., STOP 0782, Washington, D.C. 20250, telephone (202) 720-1615. Persons with hearing or speech impairments may access this number via TDD by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

This Notice outlines the process for providing voucher assistance to eligible tenants when a property owner either prepays a Section 515 loan or USDA action results in a foreclosure after September 30, 2005.

The Consolidated Appropriations Act, 2016, Pub. L. 114-113, provided that the Secretary of the USDA shall carry out the Rural Development Voucher program as follows:

That of the funds made available under this heading, \$15,000,000, shall be available for rural housing vouchers to any low-income household (including those not receiving rental assistance) residing in a property financed with a Section 515 loan which has been prepaid after September 30, 2005. Provided further, that the amount of such voucher shall be the difference between comparable market rent for the Section 515 unit and the tenant paid rent for such unit: Provided further, that funds made available for such vouchers shall be subject to the availability of annual appropriations: Provided

further, that the Secretary shall, to the maximum extent practicable, administer such vouchers with current regulations and administrative guidance applicable to Section 8 housing vouchers administered by the Secretary of the Department of Housing and Urban Development.

This Notice outlines the process for providing voucher assistance to the eligible impacted families when an owner prepays a Section 515 loan or USDA action results in a foreclosure.

II. Design Features of the RDVP

This section sets forth the design features of the RDVP, including the eligibility of tenants, the inspection of the housing units, and the calculation of the subsidy amount.

Rural Development Vouchers under this part are administered by the Rural Housing Service, an agency under the RD mission area, in accordance with requirements set forth in this Notice and further explained in, “The Rural Development Voucher Program Guide,” which can be obtained by contacting any RD Office. Contact information for RD offices can be found at: <http://www.rd.usda.gov/contact-us/state-offices>. These requirements are generally based on the housing choice voucher program regulations of the Department of Housing and Urban Development (HUD) set forth at 24 CFR part 982, unless otherwise noted by this Notice.

The RDVP is intended to offer protection to eligible Multi-Family Housing tenants in properties financed through RD’s Section 515 Rural Rental Housing program (Section 515 property) who may be subject to economic hardship due to the property owner’s prepayment of the RD mortgage. When the owner of a Section 515 property

pays off the loan prior to the loan's maturity date (either through prepayment or foreclosure action), the RD affordable housing requirements and Rental Assistance (RA) subsidies generally cease to exist. Rents may increase, thereby making the housing unaffordable to tenants. Regardless, the tenant may become responsible for the full payment of rent when a prepayment occurs, whether or not the rent increases.

The Rural Development Voucher is intended to help tenants by providing an annual rental subsidy, renewable on the terms and conditions set forth herein and subject to the availability of funds, that will supplement the tenant's rent payment. This program enables a tenant to make an informed decision about remaining in the property, moving to a new property, or obtaining other financial housing assistance. Low-income tenants in the prepaying property are eligible to receive a voucher to use at their current rental property, or to take to any other rental unit in the United States and its territories. Tenants in properties foreclosed on by RD are eligible for a Rural Development Voucher under the same conditions as properties that go through the standard prepayment process.

There are some general limitations on the use of a voucher:

- The rental unit must pass a RD health and safety inspection, and the owner must be willing to accept a Rural Development Voucher.

- Rural Development Vouchers cannot be used for units in subsidized housing, like Section 8 and public housing, where two housing subsidies would result.

The Rural Development Voucher may be used for rental units in other properties financed by RD, but it cannot be used in combination with the RD RA program.

- The Rural Development Voucher may not be used to purchase a home.

a. Tenant Eligibility. In order to be eligible for the Rural Development Voucher under this Notice, the tenant must meet the following conditions:

1. Be residing in the Section 515 project on the date of the prepayment of the Section 515 loan or foreclosure by RD;

2. Be a United States (U.S.) citizen, U.S. citizen national, or a resident alien that meets certain qualifications. In accordance with Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a), financial assistance under this voucher program can only be provided to a United States (U.S.) citizen, U.S. non-citizen national, or a resident alien that meets certain qualifications. RD considers the tenant who applies for the voucher under this Notice as the individual receiving the financial assistance from the voucher. Accordingly, the individual tenant who applies for a voucher under this program must submit the following documentation (42 U.S.C. 1436a (d)):

i. For citizens, a written declaration of U.S. citizenship signed under the penalty of perjury. RD may request verification of the declaration by requiring presentation of a U.S. passport, Social Security card, or other appropriate documentation, as determined by RD;

ii. For non-citizens who are 62 years of age or older, the evidence consists of:

A. A signed declaration of eligible immigration status; and

B. Proof of age document; and

iii. For all other non-citizens:

A. A signed declaration of eligible immigration status;

B. Alien registration documentation or other proof of immigration registration from the United States Citizenship and Immigration Services (USCIS) that contains the individual's alien admission number or alien file number; and

C. A signed verification consent form that provides that evidence of eligible immigration status may be released to RD and USCIS for purposes of verifying the immigration status of the individual. RD shall provide a reasonable opportunity, not to exceed 30 days, for an individual to submit evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service; and

3. Be a low-income tenant on the date of the prepayment or foreclosure. A low-income tenant is a tenant whose annual income does not exceed 80 percent of the tenant median income for the area as defined by HUD. HUD's definition of median income can be found at: https://www.huduser.gov/portal/datasets/il/il16/index_mfi.html.

During the prepayment or foreclosure process, RD will evaluate the tenant to determine if the tenant is low-income. If RD determines a tenant is low-income, then within 90 days following the foreclosure or prepayment, RD will send the tenant a letter offering the tenant a voucher and will enclose a Voucher Obligation Request Form and a citizenship declaration form. If the tenant wants to participate in the RDVP, the tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the citizenship declaration to the local RD Office. If RD determines that the tenant is ineligible, RD will provide administrative appeal rights in accordance with 7 CFR part 11.

b. Obtaining a Voucher. RD will monitor the prepayment request process or foreclosure process, as applicable. As part of prepayment or foreclosure of the Section 515 property, RD will determine market rents in the housing market area prior to the date of prepayment or foreclosure. The market rents will be used to calculate the amount of the voucher each tenant is entitled to receive.

As noted above, all tenants will be notified if they are eligible and the amount of the voucher within 90 days following the date of prepayment or foreclosure. The tenant notice will include a description of the RDVP, a Voucher Obligation Request Form, and letter from RD offering the tenant participation in RDVP. The tenant has 10 months from the date of prepayment or foreclosure to return the Voucher Obligation Request Form and the signed citizenship declaration. Failure to submit the Voucher Obligation Request Form and the signed citizenship declaration within the required timeframes eliminates the tenant's opportunity to receive a voucher. A tenant's failure to respond within the required timeframes is not appealable.

Once the tenant returns the Voucher Obligation Request Form and the citizenship declaration to RD, a voucher will be issued within 30 days subject to the availability of funding. All information necessary for a housing search, explanations of unit acceptability, and RD contact information will be provided by RD to the tenant after the Voucher Obligation Request Form and citizenship declaration are received. In cases where the foreclosure sale yields no successful bidders and the property enters RD inventory, vouchers will only be offered upon the property's entry into inventory. The voucher cannot be used at an inventory property.

The tenant receiving a Rural Development Voucher has an initial period of

60 calendar days from issuance of the voucher to find a housing unit. At its discretion, RD may grant one or more extensions of the initial period for up to an additional 60 days. Generally, the maximum voucher period for any tenant participating in the RDVP is 120 days. RD will extend the voucher search period beyond the 120 days only if the tenant needs and requests an extension of the initial period as a reasonable accommodation to make the program accessible to a disabled family member. If the Rural Development Voucher remains unused after a period of 150 days from the date of original issuance, the Rural Development Voucher will become void, any funding will be cancelled, and the tenant will no longer be eligible to receive a Rural Development Voucher at that property.

If a tenant previously participated in the RDVP and was subsequently terminated, that tenant is ineligible for future participation in the RDVP.

c. Initial Lease Term. The initial lease term for the housing unit where the tenant wishes to use the Rural Development Voucher must be for one year. The “initial lease” is the first lease signed by and between the tenant and the property owner.

d. Inspection of Units and Unit Approval. Once the tenant finds a housing unit, Rural Development will inspect and determine if the housing standard is acceptable within 30 days of RD’s receipt of the HUD Form 52517, “Request for Tenancy Approval Housing Choice Voucher Program” found at <http://portal.hud.gov/hudportal/documents/huddoc?id=52517.pdf> and the Disclosure of Information on Lead-Based Paint Hazards. The inspection standards currently in effect for the RD Section 515 Multi-Family Housing program apply to the RDVP. RD must inspect the unit and ensure that the unit meets the housing inspection standards set forth

at 7 CFR 3560.103. Under no circumstances will RD make voucher rental payments for any period of time prior to the date that RD physically inspects the unit and determines the unit meets the housing inspection standards. In the case of properties financed by RD under the Section 515 program, RD will only accept the results of physical inspections performed no more than one year prior to the date of receipt by RD of Form HUD 52517, in order to make determinations on acceptable housing standards. Before approving tenancy or executing a Housing Assistance Payments contract, RD must first determine that the following conditions are met:

1. The unit has been inspected by RD and passes the housing standards inspection or has otherwise been found acceptable by RD, as noted previously; and
2. The lease includes the HUD Tenancy Addendum. A copy of the HUD Tenancy Addendum will be provided by RD when the tenant is informed he/she is eligible for a voucher.

Once the conditions in the above paragraph are met, RD will approve the unit for leasing. RD will then execute with the owner a Housing Assistance Payments (HAP) contract, Form HUD-52641. The HAP contract must be executed before Rural Development Voucher payments can be made. RD will attempt to execute the HAP contract on behalf of the tenant before the beginning of the lease term. In the event that this does not occur, the HAP contract may be executed up to 60 calendar days after the beginning of the lease term. If the HAP contract is executed during this 60-day period, RD will make retroactive housing assistance payments to the owner, on behalf of the tenant, to cover the portion of the approved lease term before execution of the HAP contract. The HAP contract and lease will need to be revised to the later effective date.

RD will not execute a HAP contract that is dated prior to either the prepayment date of the Section 515 loan, or the date of foreclosure, as appropriate. Any HAP contract executed after the 60-day period will be considered untimely. If the failure to execute the HAP contract within the aforementioned 60-day period lies with the owner, as determined by RD, then RD will not pay any housing assistance payment to the owner for that period.

e. Subsidy Calculations for Rural Development Vouchers. As stated earlier, an eligible tenant will be notified of the maximum voucher amount within 90 days following prepayment or foreclosure. The maximum voucher amount for the RDVP is the difference between the market rent in the housing market area and the tenant's contribution on the date of the prepayment, as determined by RD. The voucher amount will be based on the market rent; the voucher amount will never exceed the market rent at the time of prepayment even if the tenant chooses to stay in-place.

Also, in no event will the Rural Development Voucher payment exceed the actual tenant lease rent. The amount of the voucher will not change either over time or if the tenant chooses to move to a more expensive location.

f. Mobility and Portability of Rural Development Vouchers. An eligible tenant that is issued a Rural Development Voucher may elect to use the voucher in the same project, or may choose to move to another location. The Rural Development Voucher may be used at the prepaid property or any other rental unit in the United States and its territories that passes RD physical inspection standards, and where the owner will accept a Rural Development Voucher and execute a Form HUD 52641. Both the tenant and landlord must inform RD if the tenant plans to move during the HAP agreement

term, even to a new unit in the same complex. All moves (within a complex or to another complex) require a new voucher obligation form, a new inspection by RD, and a new HAP agreement. In addition, HUD Section 8 and federally-assisted public housing are excluded from the RDVP because those units are already federally subsidized; tenants with a Rural Development Voucher would have to give up the Rural Development Voucher to accept those other types of assistance at those properties. However, while the Rural Development Voucher may be used in other properties financed by RD, it cannot be used in combination with the RD RA program. Tenants with a Rural Development Voucher that apply for housing in an RD-financed property must choose between using the voucher or RA, if available. If the tenant relinquishes the Rural Development Voucher in favor of RA, the tenant is not eligible to receive another Rural Development Voucher while the tenant is receiving such RA.

g. Term of Funding and Conditions for Renewal for Rural Development Vouchers. The RDVP provides voucher assistance over 12 monthly payments. The voucher is issued to the household in the name of the primary tenant as the voucher holder. The voucher is not transferable from the voucher holder to any other household member, except in the case of the voucher holder's death or involuntary household separation, such as the incarceration of the voucher holder or transfer of the voucher holder to an assisted living or nursing home facility. Upon receiving documentation of such cases, the voucher may be transferred at the Agency's discretion to another tenant on the voucher holder's lease.

The voucher is renewable subject to the availability of appropriations to the USDA. In order to renew a voucher, a tenant must return a signed Voucher Obligation

Request Form, which will be sent to the tenant within 60-90 days before the current voucher expires. If the voucher holder fails to return the renewal Voucher Obligation Request Form before the current voucher funding expires, the voucher will be terminated and no renewal will occur.

In order to ensure continued eligibility to use the Rural Development Voucher, tenants must certify at the time they apply for renewal of the voucher that the current tenant income does not exceed the “maximum income level,” which is 80 percent of family median income (a HUD dataset broken down by State, and then by county). RD will advise the tenant of the maximum income level when the renewal Voucher Obligation Request Form is sent.

Renewal requests will enjoy no preference over other voucher requests, and will be processed as described in this Notice.

III. Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discrimination based on race, color, national origin, religion, sex, gender identity (including gender expression, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992 to request the form. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights

1400 Independence Avenue, S.W.,

Washington, D.C. 20250-9410;

(2) fax (202) 690-7442; or

(3) e-mail: program.intake@usda.gov

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IV. Paperwork Reduction Act

The information collection requirements contained in this document are those of the Housing Choice Voucher Program, which have been approved by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0169.

_ Dated: June 22, 2016.

Tony Hernandez

Administrator

Rural Housing Service

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